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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,900	04/12/2004	Marc Ramet	237990US26	2487
22850	7590	04/18/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER LE, HUYEN D	
			ART UNIT	PAPER NUMBER
			3751	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/18/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/18/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/821,900

Applicant(s)

RAMET, MARC

Examiner

Huyen Le

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-68 and 71-85 is/are pending in the application.
- 4a) Of the above claim(s) 9,32,50-54,59-68 and 71-73 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-43 and 56 is/are allowed.
- 6) ☒ Claim(s) 1-8,10,14-17,21-31,44-46,49,57,74,76-78,80-82,84 and 85 is/are rejected.
- 7) ☐ Claim(s) 11-13,18-20,47,48,55,58,75,79 and 83 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Regarding applicant's arguments that claim 59 among other claims is generic or readable on the elected Fig. 4, examiner respectfully disagrees with applicant. Fig. 4 shows grasping element 2 having a handle with a first coupling mechanism 30 and a second coupling mechanism 40. In a first position, the two arms 4,5 are detachably coupled to the first coupling mechanism 30 in Fig. 4. However, the reservoir 18 is not coupled to the second coupling of the handle 2 in a second position as shown in Fig. 5. Thus, claim 59 and other claims 60-68, 71-73 are not readable on the elected species, Figs 4-9, and are not generic.

Regarding identifying claims readable on the elected species, currently, claims 1-8, 10-31, 33-49, 55-58 and 74-85 are readable on the elected species II.

Claims 9, 32, 50-54, 59-68 and 71-73 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "reservoir is integral with the cap" must be shown or the feature(s) canceled from the claim 49. Figs 4-9 do not show the reservoir 15 is integral with the cap 42. Also, "the end surface and the connection surface are dome shaped" must be shown or the feature(s) canceled from claim 76. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 49 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. It is unclear as to how the reservoir 15 is integral with cap 42 (Fig. 4) while the same reservoir 15 connects to the grasping element 2 in a position preventing the applicator 12 from being charged when the applicator 12 is applied against a surface.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-7, 22, 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Glover et al (6,508,255).

The Glover et al reference discloses a device for applying a product to a surface comprising: a grasping element 6; two arms 1a,1b mounted on the grasping element via a junction; and an applicator 4 which is coupled to both of the two arms 1a and 1b and which extends between the two arms 1a,1b; a reservoir 11 containing a product (see Fig. 13); the two arms are at least partially elastically deformable.

Regarding claim 2, the applicator 4 is at least partially elastically deformable.

Regarding claim 3, at least one of the two arms is at least partially elastically deformable.

Regarding claim 4, the grasping element 6 is elastically deformable (made of soft grip material) in proximity to the junction.

Regarding claim 5, each of the two arms has a free end, and the two arms form an arc and support the applicator between the two free ends.

Regarding claim 6, the applicator 4 includes a filament portion applicable against said surface in a direction orthogonal to a principal lengthwise axis of the grasping element 6.

Regarding claim 7, applicator 5, which includes end portions 5d and 5e mounted in the slots 1p and 1q, is capable of pivoting about pivoting axes (the slots 1p and 1q) orthogonal to the principal lengthwise axis of the grasping element 6 at free ends 1d and 1f of the arms 1a and 1b (Fig. 6).

8. Claims 7, 10, 14-17, 74, 76-78, 80-82 are rejected under 35 U.S.C. 102(b) as being anticipated by Percicutti (5,010,906).

The Percicutti reference discloses a device for applying a product to a surface comprising: a grasping element 20; two arms 82 and 88 mounted on the grasping element 20 via a junction 74; and an applicator 100 between the two arms 1a,1b; the applicator 100 is mounted so as it is capable of pivoting about axes 84 and 90 orthogonal to a principal lengthwise axis of the grasping element 20 at the free ends of the arms 82 and 88.

Regarding claim 8, the grasping element 20 is detachable from the two arms 82 and 88.

Regarding claim 10, the two arms 82 and 88 are mounted integrally and rotatably (at angle A) on the grasping element 20 about a fixed axis of rotation (an axis orthogonal to the longitudinal axis), the axis of rotation forming a non-zero angle with a principal lengthwise axis of the grasping element 20.

Regarding claim 14, the two arms incorporate a pivot engaged in a seating 40 to form the axis of rotation.

Regarding claim 15, the pivot includes a resilient indentation 40 capable of snapping into the seating.

Regarding claim 16, the two arms 82 and 86 and the grasping element 20 cooperate so as to enable an immobilization of the two arms in at least one predefined position relative to the grasping element 20.

Regarding claim 17, the two arms 82 and 86 and the grasping element 20 cooperate so as to enable an immobilization of the two arms in at least two predefined positions.

Regarding claim 74, the system comprises a grasping element 20 having a longitudinal axis and end surface 36 at an end, the end surface 36 having a tangent making an angle with the longitudinal axis other than 90 degrees, the applicator including two arms 82 and 88 being linked to each other via a connection portion 74 detachably connected to the end of the grasping element 20, the connection portion having a connection surface 72 corresponding to the end surface 36, the applicator 100 is pivotable with respect to the grasping element 20.

Regarding claim 76, end surface 40 and connection surface 74 are dome shaped.

Regarding claim 77, the two arms 82 and 88 extend in one plane.

Regarding claim 78, the two arms 82 and 88 are asymmetric with respect to the pivot portion.

Regarding claim 80, the two arms 82 and 88 are flexible.

Regarding claim 81, the applicator 100 is a filament.

Regarding claim 82, the applicator 100 is partially elastically deformable.

9. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bunnell (1,666,116).

The Bunnell reference discloses a device for applying a product to a surface comprising: a grasping element 22; two arms 20 mounted on the grasping element 22 via a junction 19; and an applicator B between the two arms 20; and a reservoir 11; the grasping element 22 connected to the reservoir 11 in a position (Fig. 4) preventing the applicator from being charged when the applicator is applied against the surface; the applicator includes a filament portion B applicable against the surface in a direction orthogonal to the principal lengthwise axis of the grasping element 22.

10. Claims 1-5, 7, 21, 22, 24-28, 30, 44-46, 57, 84, 85 are rejected under 35 U.S.C. 102(b) as being anticipated by MacDonald (1,417,848).

The MacDonald reference discloses a device for applying a product to a surface comprising: a grasping element 7; two arms 16 mounted on the grasping element via a junction; and an applicator (floss) which is coupled to both of the two arms 16 and which

extends between the two arms 16; a reservoir 6 containing a product (medicating material); the two arms 16 are at least partially elastically deformable.

Regarding claim 2, the applicator 4 is at least partially elastically deformable.

Regarding claim 3, at least one of the two arms is at least partially elastically deformable.

Regarding claim 4, the grasping element 7 is elastically deformable in proximity to the junction.

Regarding claim 5, each of the two arms 16 has a free end, and the two arms 16 form an arc and support the applicator (floss) between the two free ends.

Regarding claims 6 and 30, the applicator is mounted so as it is capable of pivoting about axes orthogonal to a principal lengthwise axis of the grasping element 7 at the free ends of the arms 16.

Regarding claims 21, 24, the grasping element 7 connects to the reservoir 6 in a position preventing the applicator (by head 19 of spindle 9) from being charged (with powder, see col. 3, lines 48-59) when the applicator is applied against the surface.

Regarding claim 45, the grasping element 7 serves as a closure capsule for the reservoir.

Regarding claim 46, the grasping element 7 facilitates attachment (at 8) to the reservoir 6.

Regarding claims 84 and 85, the reservoir 6 is detachably coupled to the grasping element 7.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-6, 8, 24-28, 30, 31, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Percicutti (5,010,906) in view of Gillings (3,830,246).

Although Percicutti reference does not disclose the applicator 100 (floss) comprising fluoride, it is known in the dentistry art that floss is coated with a dentifrice such as fluoride. Gillings teaches dental floss impregnated with fluoride.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to impregnate the Percicutti applicator with fluoride in view of the teaching of Gillings for hygiene purposes. The dental floss with impregnated fluoride would constitute a reservoir containing a product.

Regarding claims 8 and 31, the grasping element 20 is detachable from the two arms 82,88.

Regarding claim 30, the applicator 100 is mounted so as it is capable of pivoting about pivoting axes 84 and 90 orthogonal to a principal lengthwise axis of the grasping element 20 at the free ends of the arms 82 and 88.

Allowable Subject Matter

13. Claims 11-13, 18-20,47, 48, 55, 58, 75, 79 and 83 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 33-43 and 56 are allowed.

Response to Arguments

15. Applicant's arguments filed 01/09/2007 have been fully considered but they are not persuasive. Regarding applicant's argument with respect to claim 1 that Glover et al do not disclose a reservoir associated with the device, examiner respectfully disagrees with applicant. Claim 1 does not recite a reservoir having any connection with the device. Therefore, the limitation is met by the reservoir in Fig. 13.

16. Applicant's arguments with respect to claims 1, 7, 10, 24, 28, 29 and 74 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Huyen Le
Primary Examiner
Art Unit 3751

HL